

CITY OF ELKINS, W. VA.

JUNE 21, 1956.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. FORRESTER, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany S. 2182]

The Committee on the Judiciary, to whom was referred the bill (S. 2182) for the relief of the city of Elkins, W. Va., having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

The amendment is as follows:

Strike all after the enacting clause and substitute the following:

That all of the Airport Revenue Bonds issued by the City of Elkins, West Virginia, presently held by the Reconstruction Finance Corporation and amounts due thereon or in connection therewith, are hereby transferred to the Civil Aeronautics Administration, together with all the functions, rights, powers, and records of the Reconstruction Finance Corporation relating to the said bonds. All receipts and recoveries hereafter with respect to said bonds shall be covered into the Treasury as miscellaneous receipts.

SEC. 2. In the settlement of its accounts the Reconstruction Finance Corporation shall receive full credit for the said bonds and all amounts due thereon or in connection therewith.

PURPOSE

The purpose of the proposed legislation, as amended by this committee, is to transfer to the Civil Aeronautics Administration all of the airport revenue bonds issued by the city of Elkins, W. Va., which are presently held by the Reconstruction Finance Corporation, and to transfer all of the functions, rights, powers, and records of the Reconstruction Finance Corporation relating to those bonds to the Civil Aeronautics Administration. After that transfer is made it is provided that all receipts and recoveries with respect to those bonds are to be covered into the Treasury as miscellaneous receipts. The Reconstruction Finance Corporation would receive full credit for the bonds and all amounts due thereon in the settlement of its accounts.

STATEMENT

Elkins, W. Va., is a city with a population of approximately 9,500 people. The bonds with which this bill is concerned were issued in connection with the purchase of land for the municipal airport of that city. The airport was improved during World War II as a part of a program of the Civil Aeronautics Administration applicable to the entire country which had as its purpose the improvement of airport facilities. Under that program the city of Elkins was to provide the land and the United States Government was to pay the cost of constructing the airport facilities. The city of Elkins applied to the Reconstruction Finance Corporation for a loan of \$75,000 for the purpose of purchasing the necessary land. The Elkins Municipal Airport at that time was located on leased land, and purchase of the land by the city was therefore a necessary prerequisite for participation in the Civil Aeronautics Administration program. On April 5, 1943, the Reconstruction Finance Corporation authorized the loan of \$75,000, and on July 20, 1944, that agency purchased 4 percent airport revenue bonds of the city in the amount of \$75,000 to evidence the loan.

In the hearing on this bill conducted by this committee's subcommittee No. 2, the evidence presented indicated that the Government was the moving party in urging participation in the program, and that at the time this airport was regarded as a necessary link in a series of airports deemed necessary in the war effort and for national defense. As such it was a part of a chain of airports extending across the Appalachian and Allegheny Mountains. The Air Force has characterized this airport as "an excellent one," and it appears from the evidence at that hearing that the demonstrated value of the airport during World War II indicates that in the event of a national emergency the airport would be valuable both for direct defense, and for auxiliary emergency support.

The income of this airport is derived mainly from American Airlines and from private planes operating in and from the airport. American Airlines in its yearly operation to Elkins, W. Va., did so at a loss of \$75,000 a year, but that airline has indicated that it would maintain such service providing that charges for airport services remain at their present level. It should be noted that any planes connected with the Government, any maneuvers by the Government, or any training program operated from this field are free of charge, so that any plane or planes using the field belonging to the United States Government at this time make no contribution to the receipts of the airport, other than what may be gained from the sale of gasoline. It is understood that governmental use of this airport at times is extensive.

A statement, which represents a typical and average period of operation of this airport from December 1954 to June 1955, submitted by Stanley K. Armentrout, manager of the Elkins Municipal Airport, is as follows:

A total of 9,842 aircraft contacted the CAA facilities at the Elkins Airport, 729 representing scheduled airline aircraft, 2,800 civilian or of commercial and private type aircraft, 6,313 military aircraft. The number of scheduled airline aircraft representing a small percentage of all scheduled airline traffic passing over Elkins, possibly 2 or 3 percent.

The number of civilian or commercial and private aircraft representing one-fourth of all civilian or commercial and private aircraft passing over Elkins. The number of military aircraft representing two-thirds of all military aircraft passing over Elkins. These figures are actual for a given period (from December to June 1955) and as indicated previously represent a typical 6 months' period of operation. Therefore, to obtain the same information for 1 year's operation simply double the figures herein submitted.

Forty-five distress calls were received in addition and in relation with the above operation (30 estimated due to equipment failure on board, the remainder due to unfavorable weather). This is covering the same 6 months' period.

Sixty actual landings and takeoffs are recorded in the private aircraft register at the manager's office at the airport. The number of civilian or commercial and private aircraft (this represents private foreign aircraft entirely, since American Airline flights are not ordinarily recorded; and neither are local flights recorded). This is one months' operation, July, and may be considered a typical given period of time.

American Airlines flights have been able to use the airport to a much better advantage due to the removal of the hill on runway No. 22 north, and a marked improvement of service has been indicated over the past year.

In the ordinance adopted by the city council of the city of Elkins, W. Va., on May 12, 1943, which authorized the issuance of the bonds here concerned, it was specifically provided that the bonds were to be payable solely from the net revenues derived from the operation of the Elkins Municipal Airport. That ordinance contained the following language in article III:

10. *Bonds not to be indebtedness of the city of Elkins.*—

Neither the bonds nor coupons shall be or constitute an indebtedness of the city of Elkins, but shall be payable solely from the revenues of the city airport as herein provided. No holder or holders of any bond issued hereunder shall ever have the right to compel the exercise of the taxing power of the city to pay said bonds or the interest thereon.

11. *Bonds secured by pledge of revenues.*—The payment of the debt service of all of the bonds issued hereunder shall be secured forthwith equally and ratably by a first lien on the net revenues derived from the city airport and subject only to the payment of operating expenses as in section 13 D (1) herein provided. The net revenues derived from the city airport in an amount sufficient to pay the principal of and interest on the bonds herein authorized, and to make the payments into the sinking fund hereinafter provided for, are hereby irrevocably pledged to the payment of the principal of and interest on the bonds herein authorized as the same become due.

The bond form as prescribed in the same ordinance contains similar language. The following language was required to be included:

This bond and the coupons appertaining hereto are payable solely from and secured by an exclusive first lien upon and pledge of the net revenues derived from the operation of the Elkins Municipal Airport, including all improvements and extensions thereto, remaining after the payment of the reasonable cost of operation and maintenance of said airport, and do not constitute an indebtedness of the city of Elkins within the meaning of any constitutional, statutory or charter provision or limitation, and the city of Elkins shall not be obligated to pay this bond or the interest thereon except from the special fund derived from the net revenue of the airport as provided in said ordinance. Nor shall the credit or taxing power of said city be deemed to be pledged to, nor shall a tax ever be levied for, the payment of the principal of or interest on this bond. The city covenants with the holders of the bonds of this issue to establish and at all times maintain such rates and collect such charges for the services and other facilities rendered by said airport, and to revise the same from time to time, whenever necessary, as will always provide revenues sufficient to pay, and out of said revenues shall pay as the same shall become due, the principal and interest on the bonds of this issue, and to create a reserve therefor, * * *

It appears that receipts from the operation of the airport after operating expenses have been deducted have not been sufficient to meet the obligations of city in connection with the loan. Since July 20, 1944, the city has paid \$16,600 on account of interest, but has not been able to and has made no payments on the principal. It would appear that at this time the city has defaulted on bonds aggregating \$22,000 and in interest amounting to \$19,400. There are also outstanding unmatured bonds in the amount of \$53,000, making a total indebtedness on the transaction of \$94,400. There is now pending in the United States District Court for the Northern District of West Virginia a suit by the RFC against the city of Elkins, praying, among other things, for judgment against the city in the amount of the defaulted bonds and interest. It is this suit which caused the city of Elkins to seek congressional relief. The Reconstruction Finance Corporation is in the process of liquidation, and this fact appears to have been a compelling factor in the decision to institute the action against the city. The income of the airport gives no promise of payment on the obligation. As a matter of fact no payment has ever been made on the principal of the bonds, and all of the payments which have been made have been applied against accrued interest. It is therefore understandable that faced with the necessity of liquidation the Reconstruction Finance Corporation sought to wind up its responsibility in the matter by the institution of the suit and proceeding to judgment against the city in order to protect the interest of the United States.

In the time that it has been in existence, the Reconstruction Finance Corporation has made loans to over 6,000 municipalities and other public bodies. To accord to the city of Elkins the relief provided for in the bill as originally introduced would be to give that city a preference which was not available and was not given to the other bodies which were granted loans under the authority of the Reconstruction Finance Corporation. At the present time the Reconstruction Finance

Corporation still holds in the neighborhood of 100 issues of municipal obligations totaling approximately 100 million, and that figure does not include a large block of bonds which are expected to be retired in the near future through public financing. It has been observed that it is probable that special circumstances could be asserted in connection with each of these obligations in support for the same sort of relief provided for in the bill as originally introduced.

This committee is not unmindful of the problems faced by the city of Elkins in connection with these airport bonds. A careful analysis of the situation has led this committee to the conclusion that it must consider two basic problems. One is the suit faced by the city of Elkins which because of the facts of the situation is very difficult if not impossible to defend against. On the other hand, the committee must consider that the Reconstruction Finance Corporation is under the compulsion of winding up its affairs in a manner which protects the investment of the funds of the United States. The committee has determined that the best way to handle this situation is to transfer the obligation of the city to a continuing agency of the United States so that the matter can be handled in the manner contemplated at the time that the obligation was entered into. That is, that the payments on the loan were to be made from profits of the airport. Accordingly the committee recommends that the bill be amended by the addition of language which would authorize the transfer of the airport revenue bonds, issued by the city of Elkins, to the Civil Aeronautics Administration with the further provision that all receipts and recoveries on the bonds after that transfer be covered into the Treasury as miscellaneous receipts. At the same time the amendment would permit the Reconstruction Finance Corporation to close out its accounts in that it would be provided that in the settlement of its accounts the Reconstruction Finance Corporation would receive full credit for those bonds and all amounts due thereon or in connection with them. It appears that the part played by the Civil Aeronautics Administration in this matter, and its responsibilities in connection with the airport make this an appropriate transfer.

The committee has determined that this amendment will accord relief to the city of Elkins and will also take into consideration the other interests which have been referred to. Therefore the committee recommends that the bill as amended by the committee be favorably considered.

The report of the Treasury Department on H. R. 6764, a similar House bill, is as follows:

TREASURY DEPARTMENT,
Washington, July 22, 1955.

HON. EMANUEL CELLER,

*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Reference is made to your letter dated June 9, 1955, requesting this Department's views regarding H. R. 6734 for the relief of the city of Elkins, W. Va. This bill would relieve the city of Elkins of all liability to repay the loan (and interest thereon) which it had received from Reconstruction Finance Corporation. The bill also contains a specific provision which would deprive Federal courts of jurisdiction to entertain a suit against the city of Elkins to enforce payment of this loan. Since there is now pending in the

United States District Court for the Northern District of West Virginia a suit by RFC for judgment against the city in the amount of the defaulted bonds and interest, this provision would deprive this court of jurisdiction to proceed with the suit.

Under a program of Civil Aeronautics Administration, the city of Elkins was to provide the land and the United States Government was to pay the cost of constructing an airport. The city of Elkins applied to RFC for a loan of \$75,000 for the purpose of purchasing the necessary land. On April 5, 1943, RFC authorized a loan of \$75,000 and on July 20, 1944, RFC purchased 4 percent airport revenue bonds of the city in the amount of \$75,000 to evidence the loan. Since the date of disbursement the city has paid \$16,600 on account of interest but has made no principal payments. At this time the city has defaulted on bonds aggregating \$22,000 and in interest amounting to \$19,400. Outstanding also are unmatured bonds in the amount of \$53,000.

The Treasury Department opposes enactment of this bill for the following reasons: (1) it would establish a highly undesirable precedent not only with respect to CAA's airport program and RFC's portfolio of public agency securities but also from the standpoint of interfering with the established and usual judicial processes and (2) by adversely affecting the marketability of other bond issues held by RFC, it would interfere with the carrying out of the congressional mandate in the Reconstruction Finance Corporation Liquidation Act to liquidate the assets and wind up the affairs of RFC as expeditiously as possible. Our reasons for opposing this legislation are set forth in greater detail in the attached memorandum.

The Department has been advised by the Bureau of the Budget that there would be no objection to the submission of an identical report on S. 2182, an identical bill.

Very truly yours,

LAWRENCE B. ROBBINS,
Acting Secretary of the Treasury.

MEMORANDUM RE H. R. 6734, FOR THE RELIEF OF THE CITY OF
ELKINS, W. VA.

Pursuant to the act of Congress authorizing RFC to make loans to public agencies of States, RFC on April 5, 1943, authorized a loan of \$75,000 to the city of Elkins, W. Va., to enable the city to purchase certain land for an airport. Under a program of Civil Aeronautics Administration, the city was to provide the land and the Government was to pay the cost of constructing the airport. On July 20, 1944, RFC purchased 4-percent airport revenue bonds of the city in the principal amount of \$75,000 to evidence its loan. Said bonds were scheduled to mature serially on May 1 of each of the years 1945 to 1973, inclusive. Since the date of disbursement of the loan, the city has paid \$16,600 on interest, but has made no principal payments. As of May 1, 1955, the city is indebted to RFC as follows:

Unmatured bonds.....	\$53, 000
Defaulted bonds.....	22, 000
Defaulted interest.....	19, 400
Total.....	94, 400

There is now pending in the United States District Court for the Northern District of West Virginia a suit by RFC against the city of Elkins, W. Va., praying, among other things, for judgment against the city in the amount of the defaulted bonds and interest.

H. R. 6734 would relieve the city of Elkins, W. Va., from all liability to repay the loan and the interest accrued thereon. The bill would also deprive Federal courts of jurisdiction to entertain any suit against the city for enforcement of the loan made by RFC.

RFC had no authority to make a grant to a municipality, and H. R. 6734 would, in effect, result in RFC's having made a grant to the city of Elkins.

RFC has made loans to other public agencies in the several States, aggregating several hundred million dollars, and the bonds evidencing a large number of these loans have been sold to insurance companies and other private investors, some at a premium. The bonds evidencing the balance of such loans which have not been paid and retired and which have not been sold to private investors are held in the portfolio of RFC, and principal and interest payments thereon are being collected as and when due. To our knowledge, no other public agency has had legislation such as H. R. 6734 introduced for its benefit.

We are informed by CAA that it had contracts with approximately 300 municipalities throughout the country similar to its contract with the city of Elkins whereby the cities were to furnish land for the airports, and in none of such instances did the Government have to pay for the land as well as to pay the cost of the construction of the airport. If the bill H. R. 6734 be enacted into law, it may encourage other public agencies whose bonds are still held by RFC to ask Congress for similar relief, and thus adversely affect the sale of such securities. Certainly, this bill is special legislation and discriminatory in that other public agencies have been required to repay loans made to them by RFC; and other municipalities which have entered into contracts with CAA similar to the contract with the city of Elkins have been required to pay for the land.

Moreover, favorable consideration of legislation of this type would seriously impair the marketability of similar securities presently held by RFC and would therefore interfere with the carrying out of the congressional mandate contained in the Reconstruction Finance Corporation Liquidation Act to liquidate the assets and wind up the affairs of RFC as expeditiously as possible.

It is our considered opinion that section 2 of H. R. 6734—

Prior to June 1, 1956, no Federal court shall have jurisdiction to hear any claim against the city of Elkins based on the liability from which such city is relieved by the first section of this Act—

is unnecessary, because if Congress should see fit to pass a bill relieving the city of Elkins of all liability to repay the \$75,000 loan, plus any interest which may have accrued thereon, RFC would immediately dismiss the pending suit. More important, however, from the standpoint of sound and orderly government it seems highly undesirable for legislation to interfere with the established and usual judicial processes by depriving a court of authority to proceed with a suit already pending. In addition, it should be pointed out that the mere

pendency of this bill could adversely affect the obtaining of a prompt hearing and decision in the pending suit by RFC against the city of Elkins because the court may wish to wait until the bill is acted on.

For the reasons above mentioned we recommend against enactment of this bill.

[S. Rept 1215, 84th Cong., 1st sess.]

PURPOSE

The purpose of the proposed legislation, as amended, is to relieve the city of Elkins, W. Va., of all liability to repay to the United States the sum of \$75,000 (plus any interest which may have accrued thereon), which amount represents a loan made to such city by the United States on April 5, 1943, through the Reconstruction Finance Corporation. The bill further provides that in the settlement of the accounts by a certifying or disbursing officer of the United States, full credit shall be given for all amounts for which liability is relieved by this act.

STATEMENT

This bill was the subject of hearings before a subcommittee of the Committee on the Judiciary on July 23, 1955. Various members of the Airport Advisory Commission of the City of Elkins; the mayor of the city of Elkins; the city attorney of Elkins, and the Deputy Assistant Secretary of the Air Force were heard.

The evidence indicated that Elkins, W. Va., is a city with a population of approximately 9,500. The airport, the subject matter of this bill, is located in that city. It appears that under a program of the Civil Aeronautics Administration, the city of Elkins was to provide the land and the United States Government was to pay the cost of constructing an airport. The city of Elkins applied to the Reconstruction Finance Corporation for a loan of \$75,000 for the purpose of purchasing the necessary land. On April 5, 1943, the RFC authorized a loan of \$75,000, and on July 20, 1944, the RFC purchased 4 percent airport revenue bonds of the city in the amount of \$75,000 to evidence the loan. Since this date the city has paid \$16,600 on account of interest, but has not been able to and has made no payments on the principal. It would appear that at this time the city has defaulted on bonds aggregating \$22,000 and in interest amounting to \$19,400. There are also outstanding unmatured bonds in the amount of \$53,000, making a total indebtedness on the transaction of \$94,400. In addition, there is now pending in the United States District Court for the Northern District of West Virginia a suit by the RFC against the city of Elkins, praying, among other things, for judgment against the city in the amount of the defaulted bonds and interest.

The evidence further discloses that this airport was built during wartime, in furtherance of a program of the Civil Aeronautics Administration applicable to the entire country. The evidence indicates that the Government was the moving party in the expanding of this airport as a link in what was deemed necessary in the interest of national defense. A statement, which represents a typical and average period of operation of this airport from December 1954 to June 1955, sub-

mitted by Stanley K. Armentrout, manager of the Elkins Municipal Airport, is as follows:

"A total of 9,842 aircraft contacted the CAA facilities at the Elkins Airport, 729 representing scheduled airline aircraft, 2,800 civilian or of commercial and private type aircraft, 6,313 military aircraft. The number of scheduled airline aircraft representing a small percentage of all scheduled airline traffic passing over Elkins, possibly 2 or 3 percent. The number of civilian or commercial and private aircraft representing one-fourth of all civilian or commercial and private aircraft passing over Elkins. The number of military aircraft representing two-thirds of all military aircraft passing over Elkins. These figures are actual for a given period (from December to June 1955) and as indicated previously represent a typical 6 months' period of operation. Therefore, to obtain the same information for 1 year's operation simply double the figures herein submitted.

"Forty-five distress calls were received in addition and in relation with the above operation (30 estimated due to equipment failure on board, the remainder due to unfavorable weather). This is covering the same 6 months' period.

"Sixty actual landings and takeoffs are recorded in the private aircraft register at the manager's office at the airport (this represents private foreign aircraft entirely, since American Airline flights are not ordinarily recorded; and neither are local flights recorded). This is one month's operation, July, and may be considered a typical given period of time.

"American Airlines flights have been able to use the airport to a much better advantage due to the removal of the hill on runway No. 22 north, and a marked improvement of service has been indicated over the past year."

Due to the topography of the land in this part of West Virginia, the value of this airport is special in its character. It is located amid the mountains and has become a central place for certain training maneuvers for the Air Force as well as headquarters for rescue measures throughout the adjoining area. In setting forth its opposition to this legislation, the report of the Treasury Department and its accompanying memorandum indicate that the RFC has made loans to other public agencies in the several States, aggregating several hundred million dollars, and the bonds evidencing a large number of these loans have been sold to private insurance companies and other private investors, some at a premium. It is stated that C. A. A. has had contracts with approximately 300 municipalities throughout the country similar to the contract with the city of Elkins. It is further stated that if the bill is enacted into law it may encourage other public agencies whose bonds are still held by RFC to ask Congress for similar relief, and thus adversely affect the sale of such securities.

The committee is aware of these facts. The testimony is to the effect, however, that the city of Elkins cannot pay this indebtedness. Under the ordinance passed by the city of Elkins, the payments were to come from the net income of the airport, and the receipts, after operating expenses have been deducted, are not sufficient to accommodate the liability imposed upon the city in reference to this airport. It is doubtful that the RFC can collect its debt through any other source than the net income as provided in these revenue bonds.

The income of this airport is derived mainly from American Airlines and from private planes operating in and from the airport. In the action instituted by the RFC against the city of Elkins it is alleged that the rates should be higher, so that some surplus would be available to apply toward the bonded indebtedness and the interest thereon. In this connection, it was testified to that American Airlines in its yearly operation to Elkins, W. Va., did so at a loss of \$75,000 a year, but would maintain such service provided matters remained in a status quo. At this point it is to be noted that any planes connected with the Government, any maneuvers by the Government, or any training program operated from this field are free of charge, so that any plane or planes using the field belonging to the United States Government at this time make no contribution to the receipts of the airport, other than what may be gained from the sale of gasoline. It is understood that governmental use of this airport is extensive.

The position of the Air Force in this matter does not concern itself with the finances involved. On the other hand, the Air Force is eager to encourage and support any extension of aviation facilities that are appropriate and sound. The statement of the Deputy Assistant Secretary of the Air Force indicates that the Elkins Municipal Airport is an excellent one and represents the expenditure of a great deal of money, and while it cannot be claimed that it is essential to national defense at this moment, it is reasonable to believe that if it was so important as to require its construction during World War II, a future emergency, particularly of the sudden all-out destructive type, which has been anticipated, would be just as likely to require this facility as was the case 10 years ago. His statement further contends that the rugged terrain in West Virginia makes adequate airports almost a necessity, either for direct defense or as auxiliary emergency support, stating that it is just as important to have adequate airports across the Appalachian and Allegheny Mountains as it is to have bridges across the Mississippi and Ohio Rivers. In pointing out the value of this airport in an emergency, the Deputy Assistant Secretary of the Air Force stated that he did not think this could be better expressed than by the recent editorial in the Elkins Inter-Mountain, printed about 3 months ago, or about April 22, 1955. This editorial relates to the usefulness of the airport to the Operation Minuteman, the National Guard mobilization exercises which were held at that time. The editorial states that the airport was the first consideration in setting up the local phase of Operation Minuteman, and the importance of the airport in time of disaster never was better demonstrated.

The editorial continues:

"This newspaper has often pointed to the availability of the Elkins Airport for emergencies. * * * It offers a haven for persons who may some day be driven from their homes in large centers of population by attacks by an enemy or even disasters not resulting from war."

The Deputy Assistant Secretary of the Air Force, in closing his written statement, commented as follows:

"As I stated in the beginning, I am not in a position to suggest the form or the extent of the financial relief which should be extended to the city of Elkins. I can testify that the Air Force would very much regret to see an airport of this value and capacity closed down and become unavailable for emergency use."

In a later portion of the hearing he testified that, in his opinion, the loss of this airport would be distinct and substantial, under all of the circumstances.

There can be no doubt, as indicated by the hearings, that the city of Elkins does not have any defense, from a legal standpoint, to the suit instituted by the RFC. It is also true that many other municipalities have been benefited by the same program as was the city of Elkins and in some instances, as in the case of the city of Elkins, overextended themselves.

The sole question in this case then is, Should the Congress, as a matter of general welfare, relieve the city of Elkins from its responsibility? It would appear from all the facts that this airport is unique in its characteristics and has acquired potentialities that make it a substantial contribution to the Nation in the event of an emergency. There is no question in the mind of the committee that this airport is necessary to effective air travel, both civilian and military, throughout the region it serves. It is also apparent from the testimony that, aside from lives saved, perhaps many times the money owed by the city of Elkins has also been saved by the facility of its airport. The committee does not desire and does not consider any action taken in this instance to be a precedent for similar action in other cases. As to the airport in the city of Elkins, W. Va., the committee is of the opinion that the good which will come from relieving the city of Elkins of its liability to pay the United States Government the amount it owes will be far outweighed by its contribution to aviation generally, both civilian and military. The committee does not believe that this airport should be placed in jeopardy because of the inability of the city of Elkins to repay the Government this loan. The committee concurs in the views expressed by the Air Force and further believes that the only way this airport may be successfully operated is to relieve the city of Elkins from its original obligation.

In the light of what the committee views to be the best interests of the country, both as to civilian and military aviation, and for the purpose stated of relieving the city of Elkins from its legal liability, it recommends that this legislation, as amended, be considered favorably.

Attached hereto and made a part hereof are the report and memorandum from the Department of the Treasury, and the statement of the Deputy Assistant Secretary, United States Air Force, hereinbefore referred to.

TREASURY DEPARTMENT,
Washington, July 22, 1955.

HON. HARLEY M. KILGORE,
*Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.*

MY DEAR MR. CHAIRMAN: Reference is made to your letter dated June 15, 1955, requesting this Department's views regarding S. 2182, for the relief of the city of Elkins, W. Va. The bill would relieve the city of Elkins of all liability to repay the loan (and interest thereon) which it had received from Reconstruction Finance Corporation. The bill also contains a specific provision which would deprive Federal courts of jurisdiction to entertain a suit against the city of Elkins to

enforce payment of this loan. Since there is now pending in the United States District Court for the Northern District of West Virginia a suit by RFC for judgment against the city in the amount of the defaulted bonds and interest, this provision would deprive this court of jurisdiction to proceed with the suit.

Under a program of Civil Aeronautics Administration, the city of Elkins was to provide the land and the United States Government was to pay the cost of constructing an airport. The city of Elkins applied to RFC for a loan of \$75,000 for the purpose of purchasing the necessary land. On April 5, 1943, RFC authorized a loan of \$75,000 and on July 20, 1944, RFC purchased 4 percent airport revenue bonds of the city in the amount of \$75,000 to evidence the loan. Since the date of disbursement the city has paid \$16,600 on account of interest but has made no principal payments. At this time the city has defaulted on bonds aggregating \$22,000 and in interest amounting to \$19,400. Outstanding also are unmatured bonds in the amount of \$53,000.

The Treasury Department opposes enactment of this bill for the following reasons: (1) it would establish a highly undesirable precedent not only with respect to CAA's airport program and RFC's portfolio of public agency securities but also from the standpoint of interfering with the established and usual judicial processes and (2) by adversely affecting the marketability of other bond issues held by RFC, it would interfere with the carrying out of the congressional mandate in the Reconstruction Finance Corporation Liquidation Act to liquidate the assets and wind up the affairs of RFC "as expeditiously as possible." Our reasons for opposing this legislation are set forth in greater detail in the attached memorandum.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report to your committee.

Very truly yours,

LAURENCE B. ROBBINS,
Acting Secretary of the Treasury.

MEMORANDUM RE S. 2182, FOR THE RELIEF OF THE CITY OF ELKINS,
W. VA.

Pursuant to the act of Congress authorizing RFC to make loans to public agencies of States, RFC on April 5, 1943, authorized a loan of \$75,000 to the city of Elkins, W. Va., to enable the city to purchase certain land for an airport. Under a program of Civil Aeronautics Administration, the city was to provide the land and the Government was to pay the cost of constructing the airport. On July 20, 1944, RFC purchased 4-percent airport revenue bonds of the city in the principal amount of \$75,000 to evidence its loan. Said bonds were scheduled to mature serially on May 1 of each of the years 1945 to 1973, inclusive. Since the date of disbursement of the loan, the city has paid \$16,600 on interest, but has made no principal payments. As of May 1, 1955, the city is indebted to RFC as follows:

Unmatured bonds-----	\$53,000
Defaulted bonds-----	22,000
Defaulted interest-----	19,400
Total-----	94,400

There is now pending in the United States District Court for the Northern District of West Virginia a suit by RFC against the city of Elkins, W. Va., praying, among other things, for judgment against the city in the amount of the defaulted bonds and interest.

S. 2182 would relieve the city of Elkins, W. Va., from all liability to repay the loan and the interest accrued thereon. The bill would also deprive Federal courts of jurisdiction to maintain any suit against the city for enforcement of the loan made by RFC.

RFC had no authority to make a grant to a municipality, and S. 2182 would, in effect, result in RFC's having made a grant to the city of Elkins.

RFC has made loans to other public agencies in the several States, aggregating several hundred million dollars, and the bonds evidencing a large number of these loans have been sold to insurance companies and other private investors, some at a premium. The bonds evidencing the balance of such loans which have not been paid and retired and which have not been sold to private investors are held in the portfolio of RFC, and principal and interest payments thereon are being collected as and when due. To our knowledge, no other public agency has had legislation such as S. 2182 introduced for its benefit.

We are informed by CAA that it had contracts with approximately 300 municipalities throughout the country similar to its contract with the city of Elkins whereby the cities were to furnish land for the airports, and in none of such instances did the Government have to pay for the land as well as to pay the cost of the construction of the airport. If the bill, S. 2182, be enacted into law, it may encourage other public agencies whose bonds are still held by RFC to ask congress for similar relief, and thus adversely affect the sale of such securities. Certainly, this bill is special legislation and discriminatory in that other public agencies have been required to repay loans made to them by RFC; and other municipalities which have entered into contracts with CAA similar to the contract with the city of Elkins have been required to pay for the land.

Moreover, favorable consideration of legislation of this type would seriously impair the marketability of similar securities presently held by RFC and would therefore interfere with the carrying out of the congressional mandate contained in the Reconstruction Finance Corporation Liquidation Act to liquidate the assets and wind up the affairs of RFC "as expeditiously as possible."

It is our considered opinion that section 2 of S. 2182—"Prior to June 1, 1956, no Federal court shall have jurisdiction to hear any claim against the city of Elkins based on the liability from which such city is relieved by the first section of this act."—is unnecessary, because if Congress should see fit to pass a bill relieving the city of Elkins of all liability to repay the \$75,000 loan, plus any interest which may have accrued thereon, RFC would immediately dismiss the pending suit. More important, however, from the standpoint of sound and orderly Government it seems highly undesirable for legislation to interfere with the established and usual judicial processes by depriving a court of authority to proceed with a suit already pending. In addition, it

should be pointed out that the mere pendency of this bill could adversely affect the obtaining of a prompt hearing and decision in the pending suit by RFC against the city of Elkins because the court may wish to wait until the bill is acted on.

For the reasons above mentioned we recommend against enactment of this bill.

STATEMENT OF BRADLEY D. NASH, DEPUTY ASSISTANT SECRETARY,
UNITED STATES AIR FORCE

My name is Bradley Nash, and my position is Deputy Assistant Secretary, United States Air Force. My responsibilities are particularly in the field of civil aviation, related to the commercial airlines, public and private airports, and the other aspects of aviation which relate to civil air activities. I have been requested by this committee to comment upon the proposed legislation to free the city of Elkins, W. Va., from certain financial obligations having to do with the Elkins Municipal Airport.

The Air Force is limited in its interest in the financial aspects of this matter. It would not be proper to express opinions as to the right or wrong of the economic and financial consequences of this legislation as it relates to Government policy.

On the other hand, the Air Force is eager to encourage and support any extension of aviation facilities that are appropriate and sound. The Elkins Municipal Airport is an excellent one and represents the expenditure of a great deal of money. The Air Force cannot claim that it is essential to national defense at this moment. On the other hand, it is reasonable to believe that if it was so important as to require its construction by the Government during World War II, a future emergency, particularly of the sudden all-out destructive type, which has been anticipated, would be just as likely to require this facility as was the case 10 years ago. The rugged terrain in West Virginia makes adequate airports almost a necessity, either for direct defense or as auxiliary emergency support. It is just as important to my mind to have adequate airports across the Appalachian and Allegheny Mountains, as it is to have bridges across the Mississippi and Ohio Rivers.

The Elkins Municipal Airport now is served by regular scheduled flights of American Airlines. This daily service gives excellent connections with Washington as well as the west.

Finally, I would like to point out the value of this airport in an emergency. I do not think that this can be better expressed than by the recent editorial in the Elkins Inter-Mountain, printed just 3 months ago on April 22. This editorial relates the usefulness of the airport to the Operation Minuteman, the National Guard mobilization exercises which were held 2 days before the editorial was printed. The editorial states that the airport "was the first consideration in setting up the local phase of Operation Minuteman, and the importance of the airport in time of disaster never was better demonstrated.

"This newspaper has often pointed to the availability of the Elkins Airport for emergencies * * *. It offers a haven for persons who may some day be driven from their homes in large centers of population by attacks by an enemy or even disasters not resulting from war."

As I stated in the beginning, I am not in a position to suggest the form or the extent of the financial relief which should be extended to the city of Elkins. I can testify that the Air Force would very much regret to see an airport of this value and capacity close down and become unavailable for emergency use.

STATEMENT OF RAYMOND A. BERGSTROM, CHIEF, PUBLIC AGENCY
DIVISION, RECONSTRUCTION FINANCE CORPORATION

Mr. Chairman and members of the committee, my name is Raymond A. Bergstrom. I am Chief of the Public Agency Division of the Reconstruction Finance Corporation (in liquidation), which holds in its portfolio the airport revenue bonds of the city of Elkins, W. Va. I wish to make a statement with respect to H. R. 6734, the purpose of which is to relieve the city of Elkins from all liability in connection with these bonds.

In July 1943, the city of Elkins entered into an agreement with the Civil Aeronautics Administration, under which the city was to furnish land for an airport, and the United States Government was to pay the cost of constructing the airport. The city of Elkins then applied to the Reconstruction Finance Corporation for a loan of \$75,000 for the purpose of purchasing the land. The loan was granted and was evidenced by \$75,000 of 4 percent airport revenue bonds issued by the city. No payment has ever been made on the principal of the bonds. Some payments have been made to apply on interest, but as of today there is approximately \$20,900 of interest accrued and unpaid, making the total obligation approximately \$95,900. In the meantime, we are informed that the Government, through CAA, has expended over \$1 million on the airport.

We understand that CAA entered into contracts with over 500 municipalities throughout the country similar to its contract with the city of Elkins. A list of those municipalities, furnished by CAA, is attached as a part of this statement. Every one of the 48 States is represented in this list. Of the entire list, the city of Elkins was the only one, to the best of our knowledge, which did not pay for the land with its own funds. It certainly was the only one that applied to RFC for a loan to finance the purchase. The proposed legislation would relieve the city from any obligation to repay the loan. This would be tantamount to a grant by the Government and would be entirely contrary to the intent of the original agreement with CAA. To the best of our knowledge, no other municipality has asked for such special treatment.

In the report of the Senate Committee on the Judiciary to accompany S. 2182, which as introduced was identical with H. R. 6743, it is urged that the city of Elkins should be relieved of its liability because the airport is unique in its characteristics. It is difficult to understand in what respect the Elkins airport and the obligation of the city in connection therewith differ fundamentally from those of the other 500 municipalities which entered into contracts with CAA. If the proposed legislation should pass, however, the situation would be indeed unique in that the city of Elkins would be the only one in this large group to fail to carry out its part of the original agreement with the Government, and the only one to be relieved of its obligation

to do so. The injustice to the citizens of the 500 municipalities who have faithfully met their local obligations, and whose Federal taxes would be used in part to relieve Elkins, would not be easy to justify.

The Senate committee's report states that it does not consider any action taken in this instance to be precedent for similar action in other cases. During its existence, the RFC has made loans to over 6,000 municipalities and other public bodies, and to the best of our knowledge, no other such borrower has sought relief from the payment of its obligation through congressional action. The RFC still has in its portfolio about 100 issues of municipal obligations totaling approximately \$7 million, not including a large block of bonds which is expected to be retired in the near future through public financing. None of these are identical with the city of Elkins, but special circumstances exist in every one. In many of them, a case for relief from the obligation could be made which would be as persuasive to the citizens of the community as is the case of Elkins. With due respect to the Senate committee, it is our belief that the passage of this legislation would establish a precedent and that the precedent would undoubtedly have an unfavorable bearing upon the further liquidation of the RFC portfolio.

For all of these reasons, we recommend very strongly against enactment of this bill.

Municipalities with airports constructed under AP-4 agreements with Federal Government

Alabama:

Auburn
Brewton
Demopolis
Dothan
Evergreen
Foley
Gadsden
Mobile
Montgomery
Muscle Shoals
Selma
Troy
Wetumpka

Arizona:

Ajo
Douglas
Gila Bend
Nogales
Phoenix
Prescott
Safford
Tucson
Valle
Willcox
Winslow
Yuma

Arkansas:

El Dorado
Jonesboro
Little Rock
Texarkana

California:

Alturas
Bakersfield

California—Continued

Banning
Bishop
Concord
Crescent City
Daggett
Eureka
Imperial
Inyokern
Little River
Long Beach
Los Angeles
Madera
Marysville
Merced
Mojave
Mantague
Monterey
Napa
Needles
Oakland
Oroville
Oxnard
Palmdale
Palm Springs
Porterville
Red Bluff
Sacramento
San Francisco
San Luis Obispo
Santa Ana
Santa Barbara
Santa Monica
Santa Rosa
Ukiah

Municipalities with airports constructed under AP-4 agreements with Federal Government—Continued

California—Continued

Watsonville
Willows

Colorado:

Grand Junction
La Junta

Connecticut:

Bridgeport
Danbury
Groton
Hartford
New Haven
Willimantic

Delaware:

Dover
Georgetown
Wilmington

Florida:

Bartow
Bunnell
Cross City
Daytona Beach
Deland
Dunnellon
Fernandina
Fort Myers
Fort Pierce
Gainesville
Homestead
Jacksonville (2)
Kissimmee
Lake City
Lakeland
Lake Wales
Lantana
Leesburg
Melbourne
Miami
Milton
Naples
New Smyrna Beach
Ocala
Okeechobee
Orlando
Palatka
Pensacola
Pinecastle
Punta Gorda
St. Augustine
St. Petersburg (2)
Sanford
Sarasota
Stuart
Sulphur Springs
Tampa
Titusville
Vero Beach
West Palm Beach (Lantana)
Winter Haven
Zephyrhills (2)

Georgia:

Adel
Albany
Americus
Athens

Georgia—Continued

Atlanta (2)
Bainbridge
Brunswick (2)
Columbus
Cordele
Dublin
Gainesville
LaGrange
Macon
Marietta
Moultrie
Rome
St. Mary's
Savannah (2)
Statesboro
Thomasville
Tifton
Valdosta
Waycross
Winder

Idaho:

Boise
Burley
Coeur D'Alene
Gooding
Idaho Falls
Lewiston
Montpelier

Illinois:

Champaign
Chicago
Decatur
Quincy
Springfield

Indiana:

Bloomington
Evansville
Fort Wayne
Indianapolis
Kokomo
Richmond
Terre Haute

Iowa:

Burlington
Cedar Rapids
Des Moines
Dubuque
Iowa City
Mason City
Waterloo

Kansas:

Dodge City
Hutchinson
Pittsburg
Topeka
Wichita
Winfield-Arkansas City

Kentucky:

Bowling Green
Covington
Lexington
Louisville (2)
Paducah

*Municipalities with airports constructed under AP-4 agreements with Federal Government—Continued***Louisiana:**

Alexandria
Baton Rouge
Crowley
Hammond
Lafayette
Mansfield
Natchitoches
New Iberia
New Orleans (3)
Opelousas
Shreveport

Maine:

Auburn
Augusta
Bar Harbor
Belfast
Brunswick
Dexter
Eastport
Greenville
Millinocket
Norridgewock
Old Town
Pittsfield
Portland
Princeton
Rockland
Sanford
Waterville
Winterport

Maryland:

Baltimore
Cumberland
(Wiley Ford, W. Va.)

Easton
Hagerstown
Salisbury

Massachusetts:

Barnstable
Bedford
Beverly
Boston
Fitchburg
Lawrence
Nantucket
New Bedford
Norwood
Orange
Westfield

Michigan:

Flint
Jackson
Kalamazoo
Menominee
Pellston
Saginaw-Bay City
Traverse City

Minnesota:

Alexandria
Bemidji
Duluth
Eveleth
Hibbing
International Falls

Mississippi:

Greenville
Greenwood
Gulfport
Jackson (2)
Laurel
Meridan
Natchez
Pascagoula
Starkville

Missouri:

Joplin
Kansas City
St. Louis
Springfield

Montana:

Billings
Bozeman
Butte
Cut Bank
Glasgow
Great Falls
Havre
Helena
Kalispell
Lewistown
Miles City
Missoula

Nebraska:

Beatrice
Fremont
Grand Island
Norfolk
North Platte

Nevada:

Austin
Elko
Ely
Fallon
Las Vegas
Minden

New Hampshire:

Berlin
Claremont
Concord
Keene
Laconia
Lebanon
Portsmouth

New Jersey:

Atlantic City (Pomona)
Cape May
Millville
Morristown
Newark
Trenton
Woodbine

New Mexico:

Artesia
Clovis
Hobbs
Las Cruces
Las Vegas
Raton
Roswell

Municipalities with airports constructed under AP-4 agreements with Federal Government—Continued

New Mexico—Continued

Santa Fe
Socorro
Tucumcari

New York:

Ballston Spa
Buffalo
Dansville
Dunkirk
Elmira
Endicott
Fulton
Glens Falls
Islip
Malone
Massena
New York (2)
Niagara Falls
Plattsburg
Rochester
Saranac Lake
Schenectady
Watertown
Westhampton
White Plains

North Carolina:

Asheville
Beaufort
Burlington
Charlotte
Goldsboro
Greensboro
Greenville
Kinston
Lumberton
Manteo
New Bern
Raleigh
Rockingham
Rocky Mount
Washington
Wilmington
Wilson
Winston-Salem

North Dakota:

Bismarck
Devils Lake
Dickinson
Fargo
Grand Forks
Jamestown
Minot
Valley City

Ohio:

Akron
Cleveland
Columbus
Mansfield
Springfield
Youngstown
Zanesville

Oklahoma:

Ada
Cushing
Durant
Enid

Oklahoma—Continued

Gage
Hobart
Holdenville
Muskogee (2)
Oklahoma City
Okmulgee
Pauls Valley
Shawnee
Stillwater
Tulsa

Oregon:

Astoria
Baker
Burns
Corvallis
Eugene
Hillsboro
Klamath Falls
LaGrande
Lakeview
McMinnville
Newport
North Bend
Ontario
Pendleton
Port Orford
Redmond
Salem
Scappoose
The Dalles
Tillamook
Troutdale

Pennsylvania:

Allentown
Bradford
Erie
Johnstown
Philadelphia
Pittsburgh
Wilkes-Barre
Williamsport

Rhode Island:

Providence
Westerly

South Carolina:

Aiken
Anderson
Beaufort
Camden
Charleston
Chester
Columbia
Florence
Georgetown
Greenville
Hartsville
Spartanburg
Walterboro

South Dakota:

Aberdeen
Pierre

Tennessee:

Dyersburg
Jackson
Knoxville

Municipalities with airports constructed under AP-4 agreements with Federal Government—Continued

Tennessee—Continued

Memphis
Nashville

Texas:

Alice
Amarillo
Austin
Beaumont
Beeville
Big Spring
Brownsville
Brownwood
College Station
Conroe
Corpus Christi
Del Rio
Denton
Dryden
Eagle Pass
El Paso
Fort Worth (2)
Galveston
Georgetown
Greenville
Henderson
Houston
Kerryville
Longview
Marfa
Midland
Mineral Wells
Olney
Palestine
Rockport
San Antonio
Sweetwater
Temple
Tyler
Van Horn
Vernon
Waco
Wink

Utah:

Cedar City
Delta
Logan
Ogden
Provo

Vermont:

Barre
Burlington
Coventry
Rutland

Virginia:

Blackstone
Danville
Emporia
Franklin
Lynchburg
Norfolk
Petersburg
Roanoke
Suffolk
West Point

Washington:

Bellingham
Bremerton
Chehalis
Deer Park
Ellensburg
Ephrata
Hoquiam
Olympia
Port Angeles
Seattle (2)
South Bend
Spokane
Toledo
Walla Walla
Wenatchee
Yakima

West Virginia:

Clarksburg
Elkins
Martinsburg
Parkersburg
Wheeling

Wisconsin:

Eau Claire
Janesville
LaCrosse
Milwaukee
Oshkosh
Siren

Wyoming:

Cheyenne
Laramie
Rock Springs
Sheridan

Hawaii:

Hilo
Honolulu
Keehi Lagoon
Maui
Molokai
North Kohala